

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EUGENE R. DEMINICO

Plaintiff

v.

**THE BRACHFELD LAW
GROUP, P.C.**

Defendant

CIVIL ACTION-LAW

NO:

JURY TRIAL DEMANDED

ELECTRONICALLY FILED

COMPLAINT

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by Plaintiff, Eugene R. Deminico an individual consumer, against Defendant, The Brachfeld Law Group, P.C. for violations of the Fair Debt Collections Practices Act, 15 U.S.C. §1692, *et seq.* (“FDCPA”).

2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

3. The Brachfeld Law Group, P.C. is subject to strict liability for collection activity which violates the provisions of the FDCPA.

II. JURISDICTION

4. Subject matter jurisdiction of this Court arises under 15 U.S.C. §1692k, actionable through 28 U.S.C. §§ 1331, 1337.

III. PARTIES

5. Plaintiff, Eugene R. Deminico, (“Plaintiff”), is an adult individual currently residing in Wyoming, Luzerne County, Pennsylvania.

6. The Brachfeld Law Group, P.C., (at times “Brachfeld” or “Defendant”) is a foreign corporation, engaged in the business of collecting debts within the Commonwealth of Pennsylvania, with offices for the regular transaction of business located at 20300 S. Vermont Ave. Suite 120 Torrance, CA 90502-1338 P.O. Box 11029 Carson, CA 90749. Brachfeld regularly transacts business in this district.

7. Brachfeld regularly engages in the collection of consumer debts using the mails and telephone.

8. Brachfeld regularly attempts to collect consumer debts alleged to be due another.

9. Brachfeld is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

IV. STATEMENT OF CLAIM

10. On or about September 13, 2010, Brachfeld, through its agent, employee and/or representative, Mike Carlson (“Mr. Carlson”) telephoned the Plaintiff (the “1st Call”) at his place of employment in an attempt to coerce Plaintiff into paying the alleged debt which arose out of a transaction which was incurred primarily for personal, family or household purposes (“Debt”). Mr. Carlson left a message for Plaintiff to return the call.

11. On or about September 13, 2010, Plaintiff telephoned Brachfeld (the “2nd Call”), and spoke with Mr. Carlson.

12. During the 2nd Call, Plaintiff informed Mr. Carlson that he was represented by counsel and provided Mr. Carlson with his attorney's name and telephone number.

13. Despite being informed by Plaintiff that he was represented by counsel with respect to the alleged debt, Mr. Carlson told Plaintiff that he did not need an attorney and continued to attempt to coerce Plaintiff into settling the alleged debt for \$3,000.00.

14. Thereafter, Plaintiff again informed Mr. Carlson that he was represented by counsel and would have to discuss the matter with his attorney.

15. Mr. Carlson again told Plaintiff that he did not need an attorney to help settle the alleged debt and ended the 2nd call by telling Plaintiff that it was his choice

if he wanted to continue to get “ripped off” by his attorney.

16. The telephone contacts between Brachfeld and Plaintiff constitutes “communications” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(2).

17. The above referenced communications were an attempt to collect an alleged debt.

18. The FDCPA prohibits a debt collector from communicating with a consumer in connection with the collection of any debt if the debt collector knows that the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain such attorney’s name and address. 15 U.S.C. §1692c(a)(2).

19. In violation of section 1692c(a)(2), Brachfeld, through its agent, Mr. Carlson, continued to communicate directly with Plaintiff during the 2nd call in an attempt to collect a debt after knowing that Plaintiff was represented by counsel with respect to the alleged debt.

20. The FDCPA prohibits a debt collector from using any representation or deceptive means to collect or attempt to collect any debt. 15 U.S.C. §1692e(10).

21. Mr. Carlson’s statement during the 2nd Call that Plaintiff was being “ripped off” by counsel was false and/or deceptive in violation of section 1692e(10) of the FDCPA.

22. Brachfeld and its agent(s) knew or should have known that their actions violated the FDCPA. Additionally, Brachfeld could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with said laws.

23. At all times pertinent hereto, Brachfeld was acting by and through its agents, servants and/or employees, who were acting within the scope and course of their employment, and under the direct supervision and control of the Brachfeld.

24. As a result of Brachfeld's conduct, Plaintiff has sustained emotional and mental pain and anguish in the form of anxiety, loss of sleep, loss of appetite, nervousness and pecuniary loss and he will continue to suffer same for an indefinite time in the future, all to his great loss and detriment.

COUNT I
FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.
EUGENE R. DEMINICO v. THE BRACHFELD LAW GROUP, P.C.

25. Plaintiff repeats the allegations contained above as if the same were herein set forth at length.

26. Brachfeld's conduct as set forth herein constitutes violations of §§1692c(a)(2), 1692d, §1692d(10) of the FDCPA.

WHEREFORE, Plaintiff demands judgment against Brachfeld for:

- (a) Damages;
- (b) Attorney's fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

V. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted,

KELLEY & POLISHAN, LLC

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**ATTORNEY FOR PLAINTIFF
EUGENE R. DEMINICO**